

DOCKET NO: 248760US0RDCONT



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
YASUO OHBA : EXAMINER: SOWARD, IDA M.
SERIAL NO: 10/773,297 : GROUP ART UNIT: 2822
FILED: FEBRUARY 9, 2004 : ALLOWED: JULY 31, 2006
FOR: NITRIDE COMPOUND : CONF. NO: 8744
SEMICONDUCTOR ELEMENT

PETITION UNDER 37 C.F.R. § 1.181

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313-1450

SIR:

Further to the Notice of Allowance dated July 31, 2006, Applicant respectfully requests that the Examiner acknowledge consideration of the AW reference cited in the Information Disclosure Statement filed February 9, 2004, by appropriately initialing page 1 of the associated Form PTO-1449. For the Examiner's convenience, a copy of page 1 of the Form PTO-1449 from the IDS filed February 9, 2004, is attached.

A copy of the AW reference filed February 9, 2004, is also attached.

The AW reference was considered by the Examiner in parent U.S. Application Serial No. 10/188,744. See attached Form PTO-1449 date-stamped August 22, 2002, from 10/188,744 (downloaded from Public PAIR). As noted in M.P.E.P. § 609:

The examiner will consider information which has been considered by the Office in a parent application when examining (A) a continuation application filed under 37 CFR 1.53(b) M.P.E.P. § 609.02.A.2, page 600-143, column 2.

There are exceptions to this requirement that a copy of the information must be provided. First, 37 CFR 1.98(d) states that a copy of any patent,

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publication, pending U.S. application, or other information listed in an information disclosure statement is not required to be provided if: (A) the information was previously cited by or submitted to (sic) the Office in a prior application, provided that the prior application is properly identified in the IDS and is relied on for an earlier filing date under 35 U.S.C. 120; and (B) the IDS submitted in the earlier application complies with 37 CFR 1.98(a)-(c). **If both of these conditions are met, the examiner will consider the information previously cited or submitted to the Office and considered by the Office in a prior application relied on under 35 U.S.C. 120.** M.P.E.P. § 609.04(a).II, page 600-147, column 2.

Because both of these conditions are met, Applicant respectfully requests that the Examiner acknowledge consideration of the AW reference in the above-identified application.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon

COPY

Corwin P. Umbach, Ph.D.
Registration No. 40,211

Attached:

Page 1 of Form PTO-1449 from IDS filed February 9, 2004, and date-stamped filing receipt
Reference designated "AW" in IDS filed February 9, 2004
Form PTO-1449 date-stamped August 22, 2002, from parent 10/188,744

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